

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHERYL HENRY

Application No. 09/575,776

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on December 30, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On May 22, 2002, appellant filed an amendment (Paper No. 9) to claims 1, 6, 10 and 13, and to cancel claim 9. On page 2 of appellant's Appeal Brief filed on May 7, 2003, appellant states that claims 1-8 and 10-22 are subject to final rejection and remain on appeal. On July 2, 2003, the examiner mailed an Examiner's Answer (Paper No. 20). The examiner states on page 3, section (8) that "[t]he scope of the appealed claims 1-8 and 10-22 . . . contained in the Appendix to the brief . . . is correct." However, on page 4 of the Answer, the examiner still

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includes claim 9 in his rejection of claims on appeal. In addition, the examiner still includes claim 9 in his argument on page 6 of the Answer. It is not clear whether or not the examiner is still rejecting claim 9 on appeal, or if it is merely an inadvertent error.

Accordingly, it is

ORDERED that the application is returned to the examiner to clarify for the record the status of claim 9 on appeal, notification to appellant in writing as to the status of claim 9, and for such further action as may be appropriate.

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